

REMARKS

Claims 1-17 were pending in this application. Claim 4 is amended. No new subject matter is believed to have been added by these amendments. Therefore, claims 1-17 remain in this application.

The Examiner has acknowledged that claims 9-11, 16, and 17 are directed to allowable subject matter. Additionally, the Examiner has acknowledged that claims 4-7 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Therefore, claim 4 has been rewritten in independent form. In view of this amendment, claims 4-7 are in condition for allowance.

Drawing Objections

Applicant hereby resubmits a clean copy of the amended drawing that was filed in Applicant's February 17, 2004 response to the October 27, 2003 Office Action. Applicant kindly asks the Examiner to call Applicant if the resubmitted clean copy is unacceptable.

35 U.S.C. § 103 Rejections

Claims 1-3, 8, and 12-15 stand rejected under 35 U.S.C. § 103(a) for obviousness over U.S. Patent No. 5,967,182 to Wilson (hereinafter "the Wilson patent") in view of U.S. Patent No. 6,182,689 to Lauer et al. (hereinafter "the Lauer patent").

Paragraph [0005] of the specification of the present application discusses the problems associated with a filter separate from the diaphragm. Specifically, utilizing a separate filter may result in the filter breaking or separating from the diaphragm. Furthermore, a separate filter increases the number of parts required to manufacture a flush valve diaphragm assembly and increases the assembly cost of the flush valve diaphragm assembly. The present invention therefore overcomes these problems by having an integral filter/diaphragm arrangement.

The Examiner argues that, although the Wilson patent doesn't disclose a filter as being integral with the diaphragm, the Lauer patent discloses a filter integral with the diaphragm. Therefore, the Examiner contends that it would have been obvious to one having ordinary skill in the art at the time the present invention diaphragm was made to make the filter

integral with the diaphragm in order to allow it to peripherally seal at both edges and to provide a large filtering area.

Applicant respectfully traverses the rejection for the following reasons. The Lauer patent does not disclose a filter integral with the diaphragm, rather, the Lauer patent clearly shows a diaphragm 36 mounted between an inner cover 20 and the filter assembly 42 (See FIGS. 1 & 2; column 2, lines 53-55). Thus, not only is the filter assembly 42 situated beneath the diaphragm 36, but a chamber 80 separates a screen 70 (of the filter assembly 42) from the diaphragm 36.

The Wilson patent also discloses a separate filter (in the form of a filter ring 56) and a separate diaphragm 18. The combination of the two separate pieces define the diaphragm assembly 16. Thus, it is clearly shown that both the Wilson patent and the Lauer patent disclose some type of filter that is situated below the diaphragm, as opposed to being integral with the diaphragm (as is the case with the invention claimed in claims 1 and 12). Due to the fact that the Wilson patent discloses 1.) a diaphragm structure (similar to the structure claimed in claim 1 of the present application minus the integral filter and filter related structures) **and** 2.) a filter, there is no motivation or suggestion to combine a filter into the diaphragm structure of the present invention.

For the foregoing reasons, independent claims 1 and 12 are not rendered obvious in light of the prior art. Claims 2-3, 8, 13-15 depend from and add further limitations to the independent claims and are patentable for the reasons discussed hereinabove in connection with independent claim 1 and 12. Reconsideration of the rejections of claims 1-3, 8, and 12-15 is respectfully requested.

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CONCLUSION

Based on the foregoing amendments and remarks, reconsideration of the rejections and allowance of pending claims 1-17 is respectfully requested.

Respectfully submitted,

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AMENDMENTS TO THE DRAWINGS

Applicant hereby resubmits a clean copy of the amended drawing that was filed in Applicant's February 17, 2004 response to the October 27, 2003 Office Action. An Annotated Copy of the Original Sheet has been previously submitted and is therefore not submitted herewith.

Attachment: Replacement Sheet